

(d) *Computer information.* Information stored in a computer that can be segregated only by creating an information retrieval program is not considered reasonably segregable.

#### § 1502.12 Preservation of records.

The Board shall preserve all correspondence relating to the requests it receives under this part, and all records processed pursuant to such requests, until such time as the destruction of such correspondence and records is authorized pursuant to Title 44 of the United States Code. Under no circumstances shall records be destroyed while they are the subject of a pending request, appeal, or lawsuit under the Freedom of Information Act.

### PART 1503—PRIVACY ACT PROCEDURES

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AUTHORITY: 5 U.S.C. 552a; 12 U.S.C. 1441a(a)(2); 12 U.S.C. 1441a(a)(13).

SOURCE: 57 FR 61252, Dec. 24, 1992, unless otherwise noted.

#### § 1503.1 Purpose and scope.

The purpose of this part is to establish regulations implementing the provisions of the Privacy Act with regard to access to and review of personal information in systems of records maintained by the Board.

#### § 1503.2 Definitions.

As used in this part, the following terms shall have the following meanings:

(a) *Board* means the Thrift Depositor Protection Oversight Board.

(b) *Business day* means any day other than a Saturday, Sunday, or legal Federal public holiday.

(c) *Guardian* means the parent of a minor individual or the legal guardian of an individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction.

(d) *Individual* means a natural person who is either a citizen of the United States or an alien lawfully admitted for permanent residence.

(e) *Maintain* means maintain, collect, use, disseminate, or control.

(f) *Privacy Act* means the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

(g) *Privacy Officer* means an officer or employee of the Board designated by the President of the Board to implement the Privacy Act in accordance with this part.

(h) *Record* means any item, collection, or grouping of information about an individual maintained by the Board that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual.

(i) *Routine use* means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected or created.

(j) *System of records* means a group of any records under the control of the Board from which information is retrievable by the name of the individual or some identifying number, symbol, or other identifying particular assigned to the individual.

(k) *Vice President* means a Vice President of the Board designated by the President of the Board to review actions and determinations of the Privacy Officer and to take action on behalf of the Board with respect to appeals under this part.

#### § 1503.3 Procedures for determining if an individual's records are contained in a system of records.

(a) An individual or his or her guardian desiring to know if a specific system of records maintained by the Board contains a record pertaining to

such individual shall address an inquiry in writing to the Privacy Officer, Oversight Board, 1777 F Street, NW., Washington, DC 20232. Notwithstanding the preceding sentence, an individual employed by the Board is not required while so employed to make such inquiry in writing. The written inquiry shall:

(1) Identify the system of records maintained by the Board or reasonably describe the type of record in sufficient detail to permit the Privacy Officer to identify an existing system of records; and

(2) Identify the individual making the inquiry or on whose behalf the inquiry is made. The Privacy Officer may require such information concerning the identity or authority of an individual or guardian as the Privacy Officer deems appropriate, as provided under § 1503.4(b).

(b) The Privacy Officer shall ordinarily inform an inquirer whether a system of records described in the written inquiry contains a record pertaining to an individual within ten business days following receipt of the inquiry. If the Privacy Officer is unable to respond to a written inquiry within ten business days following its receipt, the Privacy Officer shall inform the inquirer of the reasons for delay and the anticipated date of response.

(c) An affirmative response shall describe or reference the procedures to be followed in order to gain access to a record.

**§ 1503.4 Requests for disclosure of records.**

(a) Requests by or on behalf of an individual for access to records pertaining to such individual in a system of records shall be submitted in writing to the Privacy Officer, Thrift Depositor Protection Oversight Board, 1777 F Street, NW., Washington, DC 20232, in accordance with the requirements of paragraph (b) of this section. The written request may be mailed, or presented in person on a business day between 9 a.m. and 5 p.m. to the Privacy Officer at the offices of the Board specified in the preceding sentence. The written request and the envelope (if the request is mailed) shall be clearly marked "Privacy Act Request." Not-

withstanding the first sentence of this paragraph (a), an individual employed by the Board is not required while so employed to request access to his or her records in writing.

(b) Each written request shall be dated and signed and shall include:

(1) The name, address, and telephone number of the person signing the request;

(2) The name, address, and telephone number of the individual to whom a requested record pertains, if such individual is not the person signing the request, with evidence of authority to act on behalf of the record subject;

(3) Verification of identity, by providing a document, such as a photocopy of a driver's license, bearing the signature of the person signing the request.

(4) Certified or authenticated copies of documents establishing parentage or guardianship if the request is made by the guardian of the individual to whom the requested record pertains;

(5) A statement that the individual whose records are requested is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States; and

(6) The name and location of the system of records in which the requested records are contained.

(c) An individual who appears in person at the offices of the Board to submit a written request for access to his or her records shall present two forms of identification, such as a driver's license, birth certificate, or employment identification card, sufficient to establish his or her identity.

(d) Unless a requested record is publicly available pursuant to the Freedom of Information Act, 5 U.S.C. 552, the Privacy Officer may require certification by a notary public attesting to the identity of a requesting individual or other evidence establishing the identity of the requesting individual as a condition of making available or releasing a copy of a record pertaining to such individual. If a request is made by a guardian or another person acting on behalf of the individual, the Privacy Officer may require appropriate evidence of authority to act on behalf of the individual whose records are requested.

(e) Requests by or on behalf of an individual for an accounting made pursuant to 5 U.S.C. 552a(c) of previous disclosures of records pertaining to such individual in a system of records shall also be made and processed in accordance with paragraphs (a) through (d) of this section.

**§ 1503.5 Disclosure of requested records.**

(a) The Privacy Officer shall ordinarily respond to a request for access to records or an accounting of previous disclosures within ten business days following receipt of a request. If the Privacy Officer is unable to respond within ten business days following receipt of a request, the Privacy Officer shall inform the requester within ten business days following receipt of a request of the reasons for delay and the anticipated date of response.

(b) The Privacy Officer, in responding to a request for access to records, shall inform the requester:

- (1) Whether or not a requested record is maintained by the Board in a system of records;
- (2) Whether or not access will be granted;
- (3) If access is granted, of a reasonable time, place, and procedure for providing access to and copies of the requested records;
- (4) Of any fees that may be required pursuant to § 1503.11;
- (5) Of any additional information that may be required as a condition of granting access; and
- (6) If access to a record is denied, the reason or reasons for denial and the procedures for obtaining a review of such denial.

(c) The requester of records may be accompanied in the inspection and discussion of such records by a person chosen by the requester, provided that the requester submits a written and signed statement authorizing the presence of such person during such inspection and discussion.

**§ 1503.6 Special procedure: Medical records.**

Medical records requested pursuant to § 1503.4 will be disclosed to the requester unless the disclosure of such records directly to the requester, in the

judgment of the Privacy Officer, could have an adverse effect upon the requester. In such case, such information will be forwarded to a licensed physician named by the requester.

**§ 1503.7 Requests for amendment of records.**

(a) An individual or his or her guardian may request amendment of records pertaining to such individual in accordance with the requirements of this section. Such request shall be in writing and shall be submitted to the Privacy Officer, Thrift Depositor Protection Oversight Board, 1777 F Street, NW, Washington, DC 20232, by mail, or in person on a business day between 9 a.m. and 5 p.m. The written request and the envelope (if the request is mailed) shall be clearly marked "Privacy Act Record Amendment."

(b) Each request shall be dated and signed and shall:

- (1) Identify the system of records containing the record for which amendment or connection is requested;
- (2) Specify the record requested to be amended or corrected;
- (3) Specify requested additions and deletions;
- (4) State the reasons for each requested amendment or correction, with appropriate supporting information or documentation; and
- (5) Identify the requester, referring specifically to any previous written request for access submitted pursuant to § 1503.4 or providing the documentation concerning the individual and his or her guardian required by § 1503.4(b).

(c) An individual who appears in person at the offices of the Board to submit a written request for amendment or correction of his or her records shall present two forms of identification such as a driver's license, birth certificate, or employment identification card, sufficient to establish his or her identity.

(d) The Privacy Officer may require additional evidence of the identity or authority of the requester.

(e) This section does not authorize or permit collateral attack upon the results or findings of a previous judicial or administrative proceeding.

**§ 1503.8 Board review of requests for amendment of records.**

(a) The Privacy Officer shall acknowledge in writing the receipt of a request made pursuant to § 1503.7 within two business days of such receipt. Such acknowledgment may include a request for additional information necessary for a decision concerning the requested amendment of a record.

(b) The Privacy Officer shall promptly review each request made pursuant to § 1503.7 in light of relevant criteria of the Privacy Act, including, but not limited to, 5 U.S.C. 552a(e) (1) and (5).

(c) Upon completion of such review, the Privacy Officer shall direct amendment of the record as requested, giving notice of such action to the requester, or immediately notify the requester that the request for amendment of a record is denied. If an accounting of disclosures of such record has been made pursuant to 5 U.S.C. 552a(c), any person or agency listed in such accounting shall be informed of any amendment.

(d) If a request made pursuant to § 1503.7 is denied in whole or in part, the Privacy Officer shall inform the requester of the reasons for such denial, the procedures for obtaining a review of such denial, and the name and business address of the Vice President.

**§ 1503.9 Appeal of initial adverse determinations on access or amendment.**

(a) A requester may appeal the denial of a request made pursuant to § 1503.4 or § 1503.7 in accordance with the provisions of this section.

(b) An appeal shall be submitted in writing to the Secretary, Thrift Depositor Protection Oversight Board, 1777 F Street, NW., Washington, DC 20232, within 60 days following issuance of notice of a denial. The written appeal and the envelope in which it is mailed shall be clearly marked "Privacy Act Appeal." The written appeal shall be dated and signed and shall:

(1) State clearly in summary form the request that was denied, attaching a copy of the Privacy Officer's notice of denial or giving the date of such notice; and

(2) Set forth the reasons why the requester believes that access to a record

should be granted or a record should be amended.

(c) The Vice President shall complete review of an appeal and, with the advice of the General Counsel to the Board, make a final determination within 30 business days following the date on which review is requested unless, for good cause shown, the President of the Board extends such period. A requester shall be promptly notified of an extension of the review period and the reasons therefor. The Vice President shall promptly give notice to the requester of the determination to grant access to a record, to amend a record as requested, or to affirm an initial adverse determination.

(d) If on appeal a request for access to a record made pursuant to § 1503.4 is granted, the Vice President's notice shall provide the information described in § 1503.5(b) (3) and (4). If the initial denial of such request is affirmed, the Vice President's notice shall include a statement of the reasons for such determination and advise the requester of the provisions of the Privacy Act concerning judicial review of such determination, as set forth in 5 U.S.C. 552a(g).

(e)(1) If on appeal a request for amendment of a record made pursuant to § 1503.7 is granted, the Vice President shall direct amendment of the record as requested, and the Vice President's notice shall so inform the requester. If an accounting of disclosures of the record has been made pursuant to 5 U.S.C. 552a(c), any person or agency listed in the accounting shall be informed of the amendment.

(2) If the initial adverse determination of a request pursuant to § 1503.7 is affirmed, the Vice President's notice shall:

(i) Confirm, amplify, or modify the statement of reasons given by the Privacy Officer for denial of the request;

(ii) Advise the requester of the right to file with the Board a concise statement of the requester's reasons for disagreeing with the determination not to amend a record in accordance with the request, as provided by 5 U.S.C. 552a(d)(3); and

(iii) Advise the requester of the provisions of the Privacy Act concerning

judicial review of the determination, as set forth in 5 U.S.C. 552a(g).

(f) If a requester seeking amendment of a record ("disputed record") files a concise statement of disagreement pursuant to 5 U.S.C. 552a(d)(3) and paragraph (e)(2)(ii) of this section, a copy of such statement shall be provided by the Board to any person or agency to whom the disputed record is disclosed subsequent to the filing of the requester's concise statement of disagreement. If an accounting of previous disclosures of such disputed record has been made pursuant to 5 U.S.C. 552a(c), a notation of the disagreement shall be provided by the Board to any person or agency listed in such accounting. If deemed appropriate by the President of the Board, a concise statement of the Board's reasons for not amending the disputed record shall also be provided to any person or agency to whom the disputed record is disclosed subsequent to the filing of the requester's concise statement of disagreement.

**§ 1503.10 Disclosure of a record to a person other than the individual to whom it pertains.**

(a) Except as provided in paragraph (b) of this section, the Board shall not disclose by any means of communication any record contained in a system of records to any person or agency except with the prior written consent of the individual to whom the record pertains or of his or her guardian.

(b) The restrictions on disclosure in paragraph (a) of this section do not apply to disclosure:

(1) To those officers and employees of the Board who have a need for the record in the performance of their duties;

(2) Required under the Freedom of Information Act, 5 U.S.C. 552;

(3) For a routine use;

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13, United States Code;

(5) To a recipient who has provided the Board with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, the record to be

transferred in a form that is not individually identifiable;

(6) To the National Archives and Records Administration as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States or the designee of the Archivist to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the Board specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if, upon such disclosure, notification is transmitted to the last known address of such individual;

(9) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress, or subcommittee of any joint committee;

(10) To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office;

(11) Pursuant to the order of a court of competent jurisdiction; or

(12) To a consumer reporting agency in accordance with 31 U.S.C. 3711(f).

**§ 1503.11 Fees.**

(a) Records disclosed to requesters pursuant to the Privacy Act and this part shall be duplicated at a cost of \$0.10 per page, except as follows:

(1) If the Privacy Officer determines that access to a record may be provided only by furnishing a copy of the record, no fee will be charged for the first copy of the record or any portion thereof;

(2) If duplication fees do not exceed \$2 for one request, the fees will be waived; and

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(3) If the Privacy Officer determines it to be in the public interest, the Privacy Officer may waive any duplication fees.

(b) Requesters will not be charged for search or review of a record.

(c) If it is anticipated that duplication fees will exceed \$25, the requester shall be notified promptly, and processing of the request shall be suspended until an agreement to pay the requested fees has been provided by the requester.

### § 1503.12 Exception.

Nothing in this part shall allow access to any information compiled in reasonable anticipation of a civil action or proceeding.

## PART 1505—EMPLOYEE RESPONSIBILITIES AND CONDUCT

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AUTHORITY: 12 U.S.C. 1441a(a)(13) and (p)(2); 5 CFR part 735.

SOURCE: 55 FR 5358, Feb. 14, 1990, unless otherwise noted.

### Subpart A—General Provisions

#### § 1505.1 Purpose and scope.

(a) This part establishes the standards of responsibility and conduct for all employees of the Oversight Board.

(b) The following subject areas are covered:

(1) Subpart A of this part provides the definitions to be applied in implementing these standards and sets forth